

## Taxes Raised Before Exchange Subsidies Begin in 2014

Provision in the newly enacted health care law	Taxes Raised	Date of enactment
Blue Cross/Blue Shield-Loses a special deduction unless the organization spends at least 85% of their premium income on clinical services provided to policyholders	<b>\$400M</b>	Immediately
Economic substance doctrine; <i>Raises compliance costs for corporations/passed on to consumers</i>	<b>\$4.5B</b>	Immediately
Exclude black liquor from cellulosic biofuel producer credit	<b>\$23.6B</b>	Immediately
10 percent tax on indoor tanning – <i>an arbitrary tax on small businesses</i>	<b>2.7B</b>	7/1/10
Brand-name drug tax – <i>taxes on drug companies which are passed onto patients</i>	<b>\$27B</b>	12/31/10
Conform definition of medical expenses <i>denies tax preferred treatment for over-the-counter drugs so these drugs cannot be paid for by tax-preferred funds/makes them more expensive to the patient.</i>	<b>\$5B</b>	12/31/10
Increase penalty for non-qualified HSA funds; <i>Pre-tax saved \$ will be penalized 20% from 10%</i>	<b>\$1.4B</b>	12/31/10
Limit FSA to \$2,500 ( <i>currently no statutory limit: Senate imposed limit: \$6,000</i> )	<b>\$13B</b>	12/31/13
1099 reporting – ( <i>Mandates sending 1099s for every business to business transaction of \$600 or more – new paperwork burden for small business</i> )	<b>Cost to business</b>	12/31/11
Tax on manufacturers of Certain Medical Devices ( <i>Passed onto patients</i> )	<b>\$20B</b>	12/31/12
Eliminate tax deduction for Part D subsidy	<b>\$4.5B</b>	12/31/12
Raise 7.5% AGI floor to 10% ( <i>requires more expenses before eligible for health care deductions</i> )	<b>\$15.2B</b>	12/31/12
\$500k deduction limitation for wages on insurers ( <i>wages will not be ltd</i> )	<b>\$600M</b>	12/31/12
Medicare Payroll Tax NOT INDEXED for inflation ( <i>bad for high cost states</i> )	<b>\$86.8B</b>	12/31/12
Medicare Tax/Investment ( <i>3.8% not indexed; unprecedented new tax on your nest egg</i> )	<b>\$123.4B</b>	12/31/12
Annual Fee on Health Insurers ( <i>passed onto enrollees</i> )	<b>\$60.1B</b>	12/31/13
Cadillac tax – no longer phased in for high cost states	<b>\$32.0B</b>	12/31/17
<b>Exchange subsidies begin</b>	<b>Coverage</b>	<b>1/1/14</b>

### **Premium Assistance Credit/Available after Dec. 31, 2013:**

- Provides for refundable tax credits to cover the cost of health insurance premiums for those who purchase insurance through a state health benefit exchange.
- Based on the information provided to the exchange and his or her income, the individual will receive a premium assistance credit.
- Eligibility for the premium assistance credit is based on the individual's income for the tax year ending two years prior to the enrollment period.
- The premium assistance credit is available for individuals (single or joint filers) with household income between 100% and 400% of the federal poverty level who do not received health insurance through an employer.

### **Small Business Tax Credit/Available for tax years beginning after Dec. 31, 2009:**

(Direct Information from CRS Report: *Summary of Small Business Health Insurance Tax Credit Under the Patient Protection and Affordable Care Act (PPACA)*)

In each of the four years 2010 through 2013, the full (or maximum) credit will cover up to 35% of a qualified **for-profit** employer's contributions to health insurance.

- For example, if an employer paid for 60% of premiums, the maximum small business tax credit through 2013 will be equivalent to 35% of the employer contribution (or 21% of the total premium in this example—i.e., 35% of 60%). In this case, assume the average total premium for this employer was \$7,500, and the employer's contribution was \$4,500 (60%) per full-time equivalent employee (FTE), the maximum tax credit would be \$1,575 per FTE (35% of \$4,500).
- For **nonprofit** employers, the maximum credit through 2013 is 25% (rather than 35%) of the employer's contribution.
- Beginning in 2014, for **for-profit** employers, the maximum credit is 50% of the employer's contribution toward premiums, and 35% of employer contributions for nonprofit organizations. The small business tax credit that is available beginning in 2014 is only available to an employer for two consecutive tax years, beginning with the first

year that the employer offers coverage through an exchange. Thus, the small business tax credit is potentially available for a total of six years—the initial credit availability from 2010 through 2013, plus the two-year credit period beginning as early as 2014.

Small employers can claim the *full* credit amount if they meet the following two criteria:

- *The employer has 10 or fewer FTEs.* FTEs are calculated by dividing the total hours worked by all "employees" (see description below) during the tax year by 2,080 (with a maximum of 2,080 hours for any one employee).
- *The employer's average taxable wages are \$25,000 or less.* This is calculated by dividing the aggregate amount of wages paid to the "employees" during the year by the number of FTEs (and then rounding to the nearest \$1,000).

For calculating the number of FTEs and their wages, the term "employees" excludes seasonal workers (working no more than 120 days during the year). In addition, the term "employees" excludes the following (as defined in the Internal Revenue Code): a self-employed individual, a 2% shareholder in an S-corporation, a 5% owner of an eligible small business, or someone who is a relation or dependent of these people. Thus, for example, the business will not receive a credit for small business owners or their family members.

**Individual Mandate/Effective for tax years beginning after Dec. 31, 2013:**

- The law requires U.S. citizens and legal residents to maintain minimum amounts of health insurance coverage.
- Minimum essential coverage includes various government-sponsored programs, eligible employer-sponsored plans, plans in the individual market, grandfathered group health plans and other coverage as recognized by the Secretary of Health and Human Services. This requirement would not apply to individuals who are incarcerated, not legally present in the United States or maintain religious exemptions.
- Individuals who fail to maintain minimum essential coverage will be subject to a penalty:
  - 2014 greater of a flat fee of \$95 or 1.0% of taxable income
  - 2015 greater of a flat fee of \$325 or 2.0% of taxable income
  - 2016 greater of a flat fee of \$695 or 2.5% of taxable income
- The penalty amount will be phased in over the years 2014–2016 and will be indexed for inflation after 2016. No liens or seizures are authorized to enforce this penalty.
- This provision is expected to raise \$17 billion in fines on individuals over ten years, beginning in 2014.

**Reporting Requirements/ Effective for calendar years beginning after December 31, 2013:**

- Information will be required for reporting such as name, address, and taxpayer identification number of the primary insured, and the name and taxpayer identification number of each other individual obtaining coverage under the policy. In addition, pertinent information relating to dates during which the individual was covered under the policy during the calendar year; as well as such other information as the Secretary may require.

**Medical Care Itemized Deduction Threshold/Effective for tax years beginning after Dec. 31, 2012:**

- The threshold for the itemized deduction for unreimbursed medical expenses is increased from 7.5% of AGI to 10% of AGI requiring more medical expenses before a deduction can be taken. This is effective for tax years beginning after Dec. 31, 2012, unless the taxpayer or their spouse turns 65 before the end of the tax year then the increased threshold does not apply and the threshold remains at 7.5% of AGI.

**Additional Hospital Insurance Tax on High-Income Taxpayers/ Applies to remuneration received and tax years beginning after Dec. 31, 2012.**

- The employee portion of the hospital insurance tax ( FICA), currently amounting to 1.45% of covered wages, is increased by 0.9% on wages that exceed \$200,000 individual and \$250,000 jointly.

**Employer Responsibility/ Effective for months beginning after Dec. 31, 2013:**

(Direct Information from CRS Report: *Summary of Potential Employer Penalties Under the Patient Protection and Affordable Care Act (PPACA)*)

- PPACA does not explicitly mandate an employer to offer employees acceptable health insurance. However, certain employers with at least 50 full-time equivalents will face penalties, beginning in 2014, if one or more of their full-time employees obtains a premium credit through an exchange.
- An individual may be eligible for a premium credit either because the employer does not offer coverage or the employer offers coverage that is not "affordable."

- The Employer Mandate provision is expected to raise \$52 billion in fines on employers over ten years, beginning in 2014.

#### Application Only to "Large Employers":

- To be subject to these penalties regarding employer-sponsored health insurance, an employer must be a "large employer," defined as having "at least 50 full-time employees during the preceding calendar year." "Full-time employees" are defined as those working 30 or more hours per week. The number of full-time employees excludes those full-time seasonal employees who work for less than 120 days during the year.
- The hours worked by part-time employees (i.e., those working less than 30 hours per week) are included in the calculation of a large employer, on a monthly basis. This is done by taking their total number of monthly hours worked divided by 120.
- For example, a firm has 35 full-time employees (30+ hours). In addition, the firm has 20 part-time employees who all work 24 hours per week (96 hours per month). These part-time employees' hours would be treated as equivalent to 16 full-time employees, based on the following calculation:  $20 \text{ employees} \times 96 \text{ hours} / 120 = 1920 / 120 = 16$
- Thus, in this example, the firm would be considered a "large employer," based on a total full-time equivalent count of 51—that is, 35 full-time employees plus 16 full-time equivalents based on part-time hours. However, in terms of calculating potential penalties below, part-time hours and part-time employees are not included; only the actual 35 full-time employees would be counted.

#### Potential Tax Penalties in 2014 on Large Employers:

- Regardless of whether or not a large employer offers coverage, it will be potentially liable for a penalty *only if* at least one of its full-time employees obtains coverage through an exchange and receives a premium credit. (For purposes of applying the penalty amounts discussed in the remainder of this report, a "full-time employee" is only those individuals working 30 hours per week or more. Part-time workers or full-time equivalents are not included in penalty calculations. An employer will not pay a penalty for any part-time workers, even if that employee receives a premium credit.)
- Beginning in 2014, individuals who are *not* offered employer-sponsored coverage and who are not eligible for Medicaid or other programs may be eligible for premium credits for coverage through an exchange. These individuals will generally have income between 138% and 400% of the federal poverty level (FPL).

- Individuals who *are* offered employer-sponsored coverage can only obtain premium credits for exchange coverage if, in addition to the other criteria above, they also are not *enrolled* in their employer's coverage, and their employer's coverage meets either of the following criteria: the individual's required contribution toward the plan premium would exceed 9.5% of their household income, or the plan pays for less than 60%, on average, of covered health care expenses.
- In 2014, for example, if citizens whose income is below 138% FPL (that is, 133% FPL plus an extra 5% FPL that is to be disregarded from individuals' income when determining Medicaid eligibility) apply for premium credits through an exchange, they will be determined eligible for Medicaid and be enrolled in Medicaid rather than exchange coverage with premium credits. This could affect whether any of an employer's full-time employees obtain premium credits in an exchange—and if so, how many.

#### Large Employers Not Offering Coverage:

- A large employer will be subject to a penalty if any of its full-time employees receives a premium credit toward their exchange plan. In 2014, the *monthly* penalty assessed to employers who do not offer coverage will be equal to the number of full-time employees minus 30 multiplied by 1/12 of \$2,000 for any applicable month. After 2014, the penalty payment amount would be indexed by a premium adjustment percentage for the calendar year.
- Employers that do not offer coverage must also file a return stating that they do not offer coverage, the number of full-time employees, and other information required by the Secretary. They must provide notice to employees about the existence of the exchange, including a description of the services provided by the exchange.

#### Large Employers Offering Coverage:

- Employers who do offer health coverage will *not* be treated as meeting the employer requirements if at least one full-time employee obtains a premium credit in an exchange plan because, in addition to meeting the other eligibility criteria for credits, the employee's required contribution exceeds 9.5% of the employee's household income or if the plan offered by the employer pays for less than 60% of covered expenses.
- In 2014, the *monthly* penalty assessed to the employer for each full-time employee who receives a premium credit will be 1/12 of \$3,000 for any applicable month. However, the total penalty for an employer would be limited to the *total* number of the firm's full-time employees minus 30, multiplied by 1/12 of \$2,000 for any applicable month. After 2014, the penalty amounts would be indexed by a premium adjustment percentage for the calendar year.

- An employer must file a return providing the name of each individual for whom they provide the opportunity to enroll in coverage, the length of any waiting period, the number of months that coverage was available, the monthly premium for the lowest cost option, the plan's share of covered health care expenses paid for, the number of full-time employees, the number of months employees were covered, if any, and any other information required by the Secretary. The employer must provide notice to employees about the existence of the exchange, including a description of the services provided by the exchange.

**Excise Tax on High-Cost Employer Plans/ Effective for tax years beginning after Dec. 31, 2017:**

- Imposes an excise tax on insurers if the value of employer-sponsored health insurance coverage for an employee (including, for purposes of the provision, any former employee, surviving spouse and any other primary insured individual) exceeds a threshold amount. The tax is equal to 40% of the aggregate value that exceeds the threshold amount.
- For 2018, the threshold amount is \$10,200 for individual coverage and \$27,500 for family coverage. This will be multiplied by the health cost adjustment percentage (as defined in the act) and increased by the age and gender adjusted excess premium amount (as defined in the act).

**Tax on HSA Distributions/Effective for disbursements made during tax years starting after Dec. 31, 2010:**

- The additional tax on distributions from a health savings account (HSA) or an medical savings account (MSA) that are not used for qualified medical expenses is increased to 20% of the disbursed amount.

**Tax on Indoor Tanning Services/The provision applies to services performed on or after July 1, 2010:**

- The act imposes a 10% tax on amounts paid for indoor tanning services.

**Information Reporting/Effective for payments made after Dec. 31, 2011:**

- The act requires employers to disclose on each employee's annual Form W-2 the value of the employee's health insurance coverage sponsored by the employer, effective for tax years beginning after Dec. 31, 2010.

- The act requires businesses to file an information return for all payments aggregating \$600 or more in a calendar year to a single payee, including corporations (other than a payee that is a tax-exempt corporation).

**Flexible Spending Account/The provision is effective for tax years beginning after Dec. 31, 2012:**

- The act mandates that the maximum amount available for reimbursement of incurred medical expenses of an employee, the employee's dependents, and any other eligible beneficiaries with respect to the employee, under a health flexible spending account for a plan year (or other 12-month coverage period) must not exceed \$2,500.